

# **COMPLIANCE AUDIT REPORT**

**STATE OF MAINE  
WORKERS' COMPENSATION BOARD**



**MAINE MOTOR TRANSPORT ASSOCIATION  
June 18, 2004**

**Office of Monitoring, Audit & Enforcement**

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## SUMMARY

The Audit Division of the Maine Workers' Compensation Board examined 25 claim files for the period under examination (2002) to determine compliance with statutory and regulatory requirements in the following areas:

- Form filing
- Timeliness of indemnity payments
- Accuracy of indemnity payments

Of the claims files audited, there were 22 “lost time” claims and 3 “medical only” claims.

Our audit revealed:

Maine Motor Transport Association (MMTA) is the administrator of workers' compensation coverage for an association of a self-insured group of employers.

Maine WCB Audit Division's on-site audit of MMTA was held on October 27, 2003 at their location on Whitten Road in Augusta. The compliance tables found on pages 8 through 10 of this report are representative of our finding as of October 27, 2003. The missing form filings that the Audit Division requested were all received. There is one outstanding issue that has warranted further investigation by MMTA. Following is a discussion of the aforementioned compliance tables.

Our audit revealed:

- Form filing:
  - The twenty two “lost time” claims sort out as follows:
    - Seven claims were compensated lost time claims.
      - Five compensated claims' Employer's First Report of Occupational Injury or Disease (WCB-1) were filed timely, which is in compliance with Title 39-A, M.R.S.A, Section 303.
      - Two compensated lost time claims' Employer's First Report of Occupational Injury or Disease were not filed timely, which is not in compliance with Title 39-A, M.R.S.A, Section 303.
    - Fifteen claims were non-compensated lost time claims.
      - Fifteen non-compensated lost time claims' Employer's First Report of Occupational Injury or Disease were filed timely, which is in compliance with Title 39-A, M.R.S.A, Section 303.

*Title 39-A, M.R.S.A Section 303 provides the requirements for reports to Board.*

- It appears that the WCB-1 filings were 92 percent compliant. See “Form Filing”.

- The Wage Statement and Schedule of Dependent(s) (WCB-2) and Filing Status Statement (WCB-2A) compliance rates appear to be 60 and 40 percent respectively. The non-compliant rates were 40 and 30 percent respectively for forms that were filed late. See “Form Filing”.
- The Memorandum of Payment (WCB-3) compliance rate appears to be 86 percent. This compliance rate exceeds the WCB performance benchmark, which is at 75 percent. See “Form Filing”.
- The Discontinuance or Modification of Compensation (WCB-4) compliance rate appears to be 100 percent. See “Form Filing”.
- The Notice of Controversy (WCB-9) compliance rate appears to be 100 percent. See “Form Filing”.
- The Statement of Compensation Paid (WCB-11) compliance rate appears to be 86 percent. See “Form Filing”.

➤ Timeliness of the seven compensable lost time claims:

- Three claimants were paid the initial indemnity benefits timely, which is in compliance with Title 39-A, M.R.S.A. Section 205.
  - In addition to the initial payments shown above, a NOC was timely-filed on a claim that was later found to be compensable (and was paid) prior to Mediation.
- Three claimants were not paid the initial indemnity benefits timely, which is not in compliance with Title 39-A, M.R.S.A. Section 205.
  - Two claimant’s benefit payment was made on the 21<sup>st</sup> day.
  - One claimant’s benefit payment was made on the 15<sup>th</sup> day.
- The initial indemnity payment benefit compliance rate is at 50 percent. This compliance rate does not meet the WCB performance benchmark, which is at 80 percent. See “Indemnity Benefits”.
- The subsequent indemnity payments compliance rate is 87 percent (67 payments were made between 0-7 days). There were 10 subsequent payments made between 8-14 days. See “Indemnity Benefits”.

*Title 39-A, M.R.S.A. Section 205 (2) provides the requirements for benefit payment.*

➤ Accuracy of the seven compensable lost time claims:

- The aggregate of all overpayments and underpayments mentioned in the following text results in a net under payment of \$562.29. These underpayments have been paid as of

12/18/03. None of the seven compensable lost time claims were paid accurate. Please note that one claimant has unresolved issues that warrant further investigation before the accuracy can be ascertained.

- One claimant had the wrong column, from the Weekly Benefit Table, used to create an underpayment of \$9.24.
- Five claimant's AWW were tabulated incorrectly which created underpayments totaling \$553.05. One of the five claimants also had the partials calculated incorrectly.
- One claimant appears to have been paid by using the wrong filing status. The WCB-2A that was filed with the board on 1/09/03 is Married/Joint with two dependents. He was paid Married Joint with one dependent. The claimant subsequently filed a second WCB-2A stating filing status as Married/Separate because he was "going through a divorce". Chapter 8.9 of the Rules and Regulations, states that "Form WCB-2A shall be completed based on the employee's federal tax return filed for the calendar year prior to the employee's date of injury unless the employee demonstrates a change in marital status or number of dependents since the calendar year for which the tax return was filed. Clear demonstration of such a change would be documentation of the filing status from his federal tax return he filed the following year. This issue is unresolved; MMTA is consulting the issue with their legal advisors.
- The compliance rate of the accuracy of the average weekly wage (AWW) was 29 percent.
- The compliance rate of the accuracy of the weekly benefit rate was 14 percent

*Title 39-A, M.R.S.A Sections 212 and 213 provides requirements for compensation for total incapacity and partial incapacity*

The Audit Division would like to thank MMTA and its staff for the use of its facilities and providing the audit staff the necessary materials needed to complete the audit in a proficient manner.

## PENALTIES

### ◆ Section 205(3), M.R.S.A. Penalties (payable to injured employees)

“When there is not an ongoing dispute, if weekly compensation benefits or accrued weekly benefits are not paid within 30 days after becoming due and payable, \$50 per day must be added and paid to the worker for each day over 30 days in which the benefits are not paid. Not more than \$1,500 in total may be added pursuant to this subsection. For purposes of ratemaking, daily charges paid under this subsection do not constitute elements of loss.”

Penalties pursuant to 39-A M.R.S.A. Sec. 205(3) are paid directly to the injured employee. The penalties below are being sought. If you disagree, you have the right to a hearing before the Abuse Investigation Unit. Please provide proof of payment for all undisputed penalties.

- None

## PENALTIES (Continued)

### ◆ Penalties Allowed by Law (Payable to the Workers' Compensation Board)

39-A M.R.S.A. Sec. 359(2)

“In addition to any other penalty assessment permitted under this Act, the board may assess civil penalties not to exceed \$10,000 upon finding, after hearing, that an employer, insurer or 3<sup>rd</sup>-party administrator for an employer has engaged in a pattern of questionable claims-handling techniques or repeated unreasonably contested claims. The board shall certify its findings to the Superintendent of Insurance, who shall take appropriate action so as to bring any such practices to a halt. This certification by the board is exempt from the provisions of the Maine Administrative Procedure Act.”

No action contemplated.

39-A M.R.S.A. Sec. 360(1)(A)

“The board may assess a civil penalty not to exceed \$100 for each violation on any person: Who fails to file or complete any report or form required by this Act or rules adopted under this Act;”

- One (1) form was not filed (100.00)  
(This form has been filed as of this date).

39-A M.R.S.A. Sec. 360(1)(B)

“The board may assess a civil penalty not to exceed \$100 for each violation on any person: Who fails to file or complete such a report or form within the time limits specified in this Act or rules adopted under this Act.”

- Ten (10) forms were filed late (\$1,000.00).

39-A M.R.S.A. Sec. 360(2)

“The board may assess, after hearing, a civil penalty in an amount not to exceed \$1,000 for an individual and \$10,000 for a corporation, partnership or other legal entity for any willful violation of this Act, fraud or intentional misrepresentation. The board may also require that person to repay any compensation received through a violation of this act, fraud or intentional misrepresentation or to pay any compensation withheld through a violation of this Act, fraud or misrepresentation, with interest at the rate of 10% per year.

No action contemplated.

## INDEMNITY BENEFITS

### A. Prompt Initial Payment of Benefits

			2002	
			Number	Percent
Check Mailed Within:				
0-14	Days	<b>Compliant</b>	3	50%
15-21			3	50%
Total Due			6	100%

### B. Prompt Subsequent Payment of Benefits

			2002	
			Number	Percent
Check Mailed Within:				
0-7	Days	<b>Compliant</b>	67	87%
8-14	Days		10	13%
15 +	Days		0	0%
Total Due			77	100%

### C. Accuracy of Average Weekly Wage

			2002	
			Number	Percent
Calculated:				
Correct		<b>Compliant</b>	2	29%
Incorrect			5	71%
Total			7	100%

### D. Accuracy of Weekly Benefit Rate

			2002	
			Number	Percent
Calculated:				
Correct		<b>Compliant</b>	1	14%
Incorrect			5	72%
Unknown			1	14%
Total			7	100%

## FORM FILING

### A. First Report (WCB-1)

			2002	
			Number	Percent
Received at the Board:				
Filed	<b>Compliant</b>		23	92%
Filed Late			2	8%
Total			25	100%

### B. Wage Statement (WCB-2)

			2002	
			Number	Percent
Received at the Board:				
Filed	<b>Compliant</b>		6	60%
Filed Late			4	40%
Total			10	100%

### C. Schedule of Dependent(s) and Filing Status Statement (WCB-2A)

			2002	
			Number	Percent
Received at the Board:				
Filed	<b>Compliant</b>		6	60%
Filed Late			3	30%
Not Filed			1	10%
Total			10	100%

### D. Memorandum of Payment (WCB-3)

			2002	
			Number	Percent
Received at the Board:				
Filed	<b>Compliant</b>		6	86%
Filed Late			1	14%
Total			7	100%

## FORM FILING (Continued)

### E. Discontinuance or Modification (WCB-4)

			2002	
			Number	Percent
Received at the Board:				
Filed		<b>Compliant</b>	7	100%
Filed Late			0	0%
Total			7	100%

### F. Notice of Controversy (WCB-9)

			2002	
			Number	Percent
Received at the Board:				
Filed		<b>Compliant</b>	9	100%
Filed Late			0	0%
Total			9	100%

### G. Statement of Compensation Paid (WCB-11)

			2002	
			Number	Percent
Received at the Board:				
Filed		<b>Compliant</b>	6	86%
Filed Late			1	14%
Total			7	100%